

SENATE BILL NO. 125

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 3/16/07

Referred: Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the accounting and payment of contributions under the defined**
2 **benefit plan of the Public Employees' Retirement System of Alaska, to calculations of**
3 **contributions under that defined benefit plan, and to participation in, and termination**
4 **of and amendments to participation in, that defined benefit plan; making conforming**
5 **amendments; and providing for an effective date."**

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * **Section 1.** AS 39.35.100 is repealed and reenacted to read:

8 **Sec. 39.35.100. Accounting.** (a) The commissioner shall establish and
9 maintain an adequate system of accounts and records for the plan. The accounts and
10 records shall be integrated with the accounts, records, and procedures of the employers
11 to the end that they operate most effectively and at minimum expense, and that
12 duplication of records and accounts is avoided.

13 (b) An individual account shall be maintained for each employee to record the

1 amount of the employee's mandatory contributions collected under AS 39.35.160(a).
 2 As of the last day of each calendar year and of each fiscal year, this account shall be
 3 credited with interest by applying the prescribed rate of interest, as determined by the
 4 board, to the balance in the account as of that date. When the employee is appointed to
 5 retirement, the amount held in the individual account shall be used first to fully
 6 finance the benefits paid. Once this account has been exhausted, the plan shall fully
 7 finance the benefits paid that were not financed by the employee's individual account.

8 (c) An individual account shall be maintained for each employee to record the
 9 amount of the employee's voluntary contributions to an employee savings account
 10 under AS 39.35.180. As of the last day of each calendar year and of each fiscal year,
 11 this account shall be credited with interest by applying the prescribed rate of interest,
 12 as determined by the board, to the balance in the account as of that date. Amounts that,
 13 before termination of employment, are withdrawn by an employee from the
 14 employee's savings account shall be charged to that account. When an employee is
 15 appointed to retirement, the amount held in the employee's savings account shall be
 16 paid in accordance with AS 39.35.395.

17 * **Sec. 2.** AS 39.35.115 is amended by adding new subsections to read:

18 (d) The defined benefit retirement plan established in accordance with
 19 AS 39.35.095 - 39.35.680 is a joint contributory plan.

20 (e) Upon termination of the plan, if all liabilities of the plan have been
 21 satisfied, any excess assets revert to the employers as determined by the administrator,
 22 subject to the approval of the termination by the Internal Revenue Service.

23 * **Sec. 3.** AS 39.35.125(a) is amended to read:

24 (a) An elected official of the state or of a political subdivision of the state if
 25 the political subdivision has elected under AS 39.35.600 - 39.35.650 [AS 39.35.550 -
 26 39.35.650] to designate elected officials in the classifications of employees entitled to
 27 participate in the plan is included in the plan unless the official files a written waiver
 28 of coverage with the administrator. A waiver under this subsection waives coverage of
 29 future employment as an elected official, regardless of any change of employer. An
 30 elected official may file a waiver under this subsection at any time after election to
 31 office, including the period before taking the oath of office. An elected official may

1 revoke a waiver under this subsection by filing a written revocation with the
 2 administrator. A revocation under this subsection operates prospectively only, and the
 3 elected official may not receive credited service for service as an elected official while
 4 the waiver was in effect. There is no limit on the number of times an elected official
 5 may file a waiver or revocation under this subsection.

6 * **Sec. 4.** AS 39.35.160(c) is amended to read:

7 (c) An employee who has made an election under AS 39.35.300(c) or
 8 39.35.310(c) to have the employee's years of service as a noncertificated employee of
 9 a state boarding school, of a school district or regional educational attendance area, of
 10 the special education service agency, or of the Alaska Vocational Technical Center
 11 determined by reference to AS 14.25.220 shall pay a contribution surcharge for that
 12 service. The amount of the surcharge is the difference between the amount the
 13 employer would have had to contribute under AS 39.35.255 - 39.35.290
 14 [AS 39.35.250 - 39.35.290] for the employee when treating the employee's credited
 15 service as service earned under AS 39.35.300(c) or 39.35.310(c) less the amount the
 16 employer would have had to contribute under AS 39.35.255 - 39.35.290
 17 [AS 39.35.250 - 39.35.290] without treating the employee's credited service as service
 18 earned under AS 39.35.300(c) or 39.35.310(c).

19 * **Sec. 5.** AS 39.35 is amended by adding a new section to read:

20 **Sec. 39.35.255. Contributions by employer.** (a) An employer shall make
 21 contributions to the plan in accordance with this section and as approved by the board
 22 in an amount sufficient, after subtracting member contributions, to provide the benefits
 23 of AS 39.35.095 - 39.35.680. The amount shall be calculated by applying the sum of
 24 the employer normal cost rate and the past service rate to the sum total of the base
 25 salaries paid to the employer's active employees who are members of the system,
 26 including any adjustments to contributions required by AS 39.35.520. The employer
 27 shall remit this amount to the administrator in accordance with AS 39.35.610.

28 (b) The employer contribution rate may not be less than the rate required, after
 29 subtracting the member contribution rate, to fully finance the actuarially calculated
 30 benefits expected to be earned by active members during a fiscal year.

31 (c) Each employer of a retired member rehired under authority of

AS 39.35.150(b) shall make contributions to the unfunded liability of the plan on behalf of the retired member at the rate that the employer is making contributions to the unfunded liability of the plan for the employer's other members.

(d) In (a) of this section,

(1) "employer normal cost rate" means the percentage of compensation of all active members in the system that, when combined with the member contribution rate of active members in the plan, is sufficient to provide the benefits that are expected to be credited with respect to service during the year beginning after the last valuation date; this percentage is uniformly determined for all employers and is applicable to each employer;

(2) "past service rate" means the percentage of compensation of all active members in the system necessary to provide the annual amount required to amortize the unfunded obligations of the employers for benefits earned by members in the plan as of the date of the last actuarial valuation over a period not to exceed the maximum period allowed by generally accepted accounting principles of the Governmental Accounting Standards Board; this percentage is uniformly determined for all employers and is applicable to each employer.

* **Sec. 6.** AS 39.35.260 is amended to read:

Sec. 39.35.260. Annual calculation. The employer contribution rate [FOR EACH EMPLOYER] shall be calculated every fiscal year, using the information available at the time the computation is made. The computation shall be completed in time to be considered in the state budget. Each employer shall provide in its budget for the payment of contributions according to the applicable [ITS CURRENT] contribution rate.

* **Sec. 7.** AS 39.35.260 is amended by adding a new subsection to read:

(b) Notwithstanding AS 39.35.255, the employer contribution rate calculated under AS 39.35.255 and (a) of this section for the state shall include 65 percent of the plan's unfunded liability as of June 30, 2006, as established in the valuation as of that date and subsequently approved by the board; the employer contribution rate calculated under AS 39.35.255 and (a) of this section for all other participating employers shall include the remaining 35 percent of that unfunded liability. Any

subsequent changes to the plan's unfunded liability shall be included in the employer contribution rate calculated under AS 39.35.255 and (a) of this section for all participating employers, including the state. Once the employer contribution rate for the state as calculated under AS 39.35.255, (a) of this section, and this subsection reaches a level that is within one percentage point of the rate calculated under those provisions for the other participating employers, separate rates shall no longer be calculated under this subsection; when the employer contribution rates are next computed under AS 39.35.255 and (a) of this section, one uniform rate shall be used for all participating employers.

* **Sec. 8.** AS 39.35.520(a) is amended to read:

(a) When a change or error is made in the records maintained by the plan or in the contributions made on behalf of an employee or an error is made in computing a benefit, and, as a result, an employee or beneficiary is entitled to receive from the plan more or less than the employee would have been entitled to receive had the records or contributions been correct or had the error not been made, (1) the records, contributions, or error shall be corrected, and (2) as far as practicable, future payments or benefit entitlement shall be adjusted so that the actuarial equivalent of the pension or benefit to which the employee or beneficiary was correctly entitled shall be paid. An adjustment to contributions shall be picked up by the employer under AS 39.35.160 or treated as an adjustment to the employer's contributions under AS 39.35.255 [AS 39.35.270], depending upon the nature of the adjustment. If no future payment is due, a person who was paid any amount to which the person was not entitled is liable for repayment of that amount, and a person who was not paid the full amount to which the person was entitled shall be paid the balance of that amount.

* **Sec. 9.** AS 39.35.610 is amended by adding a new subsection to read:

(b) If contributions are not submitted within the prescribed time limit, the amount of contributions and interest due may be claimed by the administrator from any agency of the state or political subdivision that has in its possession funds of the employer or that is authorized to disburse funds to the employer that are not restricted by statute or appropriation to a specific purpose. The amount claimed shall be certified by the administrator as sufficient to pay the contributions and interest due from the

1 employer. The amount claimed shall be submitted to the administrator for deposit in
2 the appropriate accounts.

3 * **Sec. 10.** AS 39.35.615(a) is amended to read:

4 (a) A political subdivision or public organization may request termination of
5 participation in the plan [THAT ITS PARTICIPATION AGREEMENT BE
6 AMENDED]. The request may be made only after adoption of a resolution by the
7 legislative body of the political subdivision and approval of the resolution by the
8 person required by law to approve the resolution, or, in the case of a public
9 organization, after adoption of a resolution by the governing body of that public
10 organization. A certified copy of the resolution shall be filed with the administrator. If
11 a political subdivision or public organization terminates [AMENDS] its participation
12 [AGREEMENT SO AS TO TERMINATE COVERAGE OF A DEPARTMENT,
13 GROUP, OR OTHER CLASSIFICATION OF EMPLOYEES], each employee whose
14 coverage is so terminated, regardless of the employee's employment status at the date
15 of termination, shall be considered fully vested in actuarially adjusted accrued
16 retirement benefits as of the date of termination, unless

17 [(1)] the employee's contributions have been refunded [; OR

18 (2) THE POLITICAL SUBDIVISION OR PUBLIC
19 ORGANIZATION AMENDED ITS PARTICIPATION AGREEMENT TO
20 EXCLUDE COVERAGE FOR THE AFFECTED DEPARTMENT, GROUP, OR
21 OTHER CLASSIFICATION OF EMPLOYEES AT THE WRITTEN REQUEST OF
22 A MAJORITY OF THE EMPLOYEES EMPLOYED IN THAT DEPARTMENT,
23 GROUP, OR OTHER CLASSIFICATION AT THE TIME THE REQUEST WAS
24 MADE].

25 * **Sec. 11.** AS 39.35.615 is amended by adding new subsections to read:

26 (g) An employer terminating participation in the plan shall pay termination
27 costs determined by the administrator, or enter into a payment plan acceptable to the
28 administrator, within 60 days of the employer's receipt of notice of its termination
29 costs from the administrator. Termination costs not paid within the prescribed time
30 limit or in accordance with the approved payment plan shall be collected by the
31 administrator in accordance with AS 39.35.610(b). If the termination cost study

reflects that the employer's allocated share of the plan's assets exceeds the termination cost, the excess assets, net of the cost described in (h) of this section, shall be refunded to the employer to the extent allowed under the Internal Revenue Code. Termination of participation by an employer in the plan does not bar future participation by the employer under AS 39.35.700 - 39.35.990 if the employer has paid in full its prior termination costs.

(h) A political subdivision or public organization considering or requesting termination from the plan shall pay the cost associated with obtaining a termination cost study associated with the employer's termination.

* **Sec. 12.** AS 39.35.620 is amended by adding new subsections to read:

(i) An employer terminating participation in the plan shall pay termination costs determined by the administrator, or enter into a payment plan acceptable to the administrator, within 60 days of the employer's receipt of notice of such cost. Termination costs not paid within the prescribed time limit or in accordance with the approved payment plan shall be collected by the administrator in accordance with AS 39.35.610(b). If the termination cost study reflects that the employer's allocated share of the plan's assets exceeds the termination cost, the excess assets, net of the cost described in (j) of this section, shall be refunded to the employer to the extent allowed under the Internal Revenue Code. Termination of participation by an employer in the plan does not bar future participation by the employer under AS 39.35.700 - 39.35.990 if the employer has paid in full its prior termination costs.

(j) A political subdivision or public organization being terminated from the plan shall pay the cost associated with obtaining a termination cost study associated with the employer's termination.

* **Sec. 13.** AS 39.35.650 is amended to read:

Sec. 39.35.650. Refunds to employers. An employer may not receive an amount from the plan, except as provided under AS 39.35.115(e), 39.35.615(g), and 39.35.620(i) [AS 39.35.615(e) AND 39.35.620(g)].

* **Sec. 14.** AS 39.35.250, 39.35.270, 39.35.280, 39.35.550, 39.35.560, 39.35.570, 39.35.580, 39.35.590, 39.35.615(d), 39.35.615(e), 39.35.615(f), 39.35.620(c), 39.35.620(f), 39.35.620(g), and 39.35.620(h) are repealed.

1 * **Sec. 15.** The uncoded law of the State of Alaska is amended by adding a new section to
2 read:

3 TRANSITION. (a) The administrator of the Public Employees' Retirement System of
4 Alaska shall notify each political subdivision or public organization participating as an
5 employer in the defined benefit plan of that system of the enactment of this Act and of the
6 departments, groups, or other classifications of employees that the employer has designated as
7 eligible plan participants under its existing participation agreement.

8 (b) Notwithstanding AS 39.35.615, as amended by secs. 10, 11, and 14 of this Act, an
9 employer shall, on or before the 90th day after the date of receipt of notification under (a) of
10 this section, request any amendment to its participation agreement to add or terminate
11 coverage of a department, group, or other classification of employees. An employer may not
12 award past service to employees added during the 90-day period. An employer may not
13 amend its participation agreements to add or terminate coverage of a department, group, or
14 other classification of employees after the 90-day period.

15 * **Sec. 16.** The uncoded law of the State of Alaska is amended by adding a new section to
16 read:

17 TRANSITION: REGULATIONS. The Department of Administration and the
18 Department of Revenue may proceed to adopt regulations to implement their respective
19 provisions of this Act.

20 * **Sec. 17.** The uncoded law of the State of Alaska is amended by adding a new section to
21 read:

22 REVISOR'S INSTRUCTIONS. The revisor of statutes is instructed to change the
23 heading of

24 (1) AS 39.35.615 from "Effect of termination by amendment of agreement" to
25 "Voluntary termination of participation";

26 (2) AS 39.35.620 from "Termination of participation" to "Involuntary
27 termination of participation."

28 * **Sec. 18.** Sections 15 and 16 of this Act take effect immediately under AS 01.10.070(c).

29 * **Sec. 19.** Except as provided in sec. 18 of this Act, this Act takes effect July 1, 2007.